

[Draft Agreement subject to further revision by State Lands Commission and Department of Parks and Recreation staff and approval by the Commission and the Director of the Department]

**Recorded at the Request of and
When Recorded Mail to:**

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**HUNTERS POINT SHIPYARD/CANDLESTICK POINT
TITLE SETTLEMENT, PUBLIC TRUST EXCHANGE
AND BOUNDARY LINE AGREEMENT**

This HUNTERS POINT SHIPYARD/CANDLESTICK POINT TITLE SETTLEMENT, PUBLIC TRUST EXCHANGE AND BOUNDARY LINE AGREEMENT ("Agreement") is dated for reference as of _____, 2010. The parties to this Agreement (each individually a "Party," and collectively "Parties") are the State of California, acting by and through the State Lands Commission ("Commission"); the State of California, acting by and through the Department of Parks and Recreation ("State Parks"); the Redevelopment Agency of the City and County of San Francisco, a public body, corporate and politic ("Agency"); the City and County of San Francisco, a charter city and county, acting by and through its Board of Supervisors ("City"); and the City and County of San Francisco, a charter city and county, acting by and through its Port Commission ("Port"). This Agreement is entered into pursuant to Chapter 203 of the Statutes of 2009 ("SB 792").

RECITALS

A. This Agreement concerns real property located in the City of San Francisco within the area commonly known as the former Hunters Point Naval Shipyard (“Shipyard”) and within the area commonly known as Candlestick Point. The area that is subject to this Agreement (“Subject Area”), described in **Exhibit 1** (“Legal Description of Subject Area”) and depicted for illustrative purposes in **Exhibit 2** (“Illustrative Plat of Subject Area”), includes lands that were historically tide or submerged lands (collectively “tidelands”) subject to the common law public trust for commerce, navigation, and fisheries (“Public Trust”), as well as historic uplands that were not subject to the Public Trust and historic tidelands in which the Public Trust may have been terminated. The purpose of this Agreement is to settle certain boundary and title disputes within the Subject Area related to the Public Trust, and to establish and reconfigure the location of lands subject to the Public Trust and lands free of the Public Trust within the Subject Area, through the conveyances, boundary line agreements, and disclaimers provided for in this Agreement, all subject to the terms and conditions of this Agreement.

B. The Subject Area consists of the following parcels of land:

- i. The Public Trust Parcels;
- ii. The Trust Termination Parcels;
- iii. The Alice Griffith Site; and
- iv. The Hunters Point Submerged Lands.

The Public Trust Parcels, the Trust Termination Parcels, the Alice Griffith Site, and the Hunters Point Submerged Lands are depicted for illustrative purposes in **Exhibit 2**.

C. The Parties desire through this Agreement to establish the Public Trust on the Public Trust Parcels and terminate the Public Trust in the Trust Termination Parcels through a land exchange, which will be accomplished through a series of conveyances as provided in this Agreement (“Exchange”). The lands to be included in the Exchange lie within the following eleven Exchange Areas, each of which is depicted in **Exhibit 3** (“Illustrative Plat of Exchange Areas”): the Shipyard Site; the Parcel A Site; the Hilltop Trust Streets; the CP State Park Site; the Non-Park Commission Land; the Yosemite Slough Addition; the Navy ROW; the Walker Drive Site; the Old Stadium Development Site; the Park Addition; and the Port Site. The Public Trust Parcels consist of the following nine parcels, each corresponding to an Exchange Area:

- i. The Shipyard Site Public Trust Parcel, depicted in **Exhibit 4** (“Illustrative Plat of Shipyard Site Public Trust Parcel”).
- ii. The Parcel A Site Public Trust Parcel, depicted in **Exhibit 5** (“Illustrative Plat of Parcel A Site Public Trust Parcel”).
- iii. The Hilltop Trust Streets Public Trust Parcel, depicted in **Exhibit 6** (“Illustrative Plat of Hilltop Trust Streets Public Trust Parcel”).

- iv. The CP State Park Site Public Trust Parcel, depicted in **Exhibit 7** (“Illustrative Plat of CP State Park Site Public Trust Parcel”).
- v. The Walker Drive Site Public Trust Parcel depicted in **Exhibit 8** (“Illustrative Plat of Walker Drive Site Public Trust Parcel”).
- vi. The Yosemite Slough Addition Public Trust Parcel depicted in **Exhibit 57** (“Illustrative Plat of Yosemite Slough Public Trust Parcel”).
- vii. The Old Stadium Development Site Public Trust Parcel, depicted in **Exhibit 9** (“Illustrative Plat of Old Stadium Development Site Public Trust Parcel”).
- viii. The Park Addition Public Trust Parcel, depicted in **Exhibit 10** (“Illustrative Plat of Park Addition Public Trust Parcel”).
- ix. The Port Site Public Trust Parcel, depicted in **Exhibit 11** (“Illustrative Plat of Port Site Public Trust Parcel”).

The Trust Termination Parcels consist of the following nine parcels, each corresponding to an Exchange Area:

- i. The Shipyard Site Trust Termination Parcel, depicted in **Exhibit 12** (“Illustrative Plat of Shipyard Site Trust Termination Parcel”).
- ii. The Parcel Site A Trust Termination Parcel, depicted in **Exhibit 13** (“Illustrative Plat of Parcel A Site Trust Termination Parcel”).
- iii. The CP State Park Site Trust Termination Parcel, depicted in **Exhibit 14** (“Illustrative Plat of CP State Park Site Trust Termination Parcel”).
- iv. The Non-Park Commission Land Trust Termination Parcel depicted in **Exhibit 15** (“Illustrative Plat of Non-Park Commission Land Trust Termination Parcel”).
- v. The Yosemite Slough Addition Trust Termination Parcel depicted in **Exhibit 58** (“Illustrative Plat of Yosemite Slough Trust Termination Parcel”).
- vi. The Navy ROW Trust Termination Parcel depicted in **Exhibit 50** (“Illustrative Plat of Navy ROW Trust Termination Parcel”).
- vii. The Old Stadium Development Site Trust Termination Parcel, depicted in **Exhibit 16** (“Illustrative Plat of Old Stadium Development Site Trust Termination Parcel”).
- viii. The Park Addition Trust Termination Parcel, depicted in **Exhibit 17** (“Illustrative Plat of Park Addition Trust Termination Parcel”).

ix. The Port Site Trust Termination Parcel, depicted in **Exhibit 18** (“Illustrative Plat of Port Site Trust Termination Parcel”).

D. The Parties also desire through this Agreement to enter into a boundary line agreement for the purposes of settling the location of the historic mean high tide line within the Alice Griffith Site, and to confirm that the Public Trust does not encumber the lands within the Alice Griffith Site.

E. In addition, the Parties desire through this Agreement to effectuate a conveyance from the Port to the Agency of the Hunters Point Submerged Lands, subject to the Public Trust, upon the satisfaction of the conditions for such conveyance set forth herein.

F. Beginning in 1861, certain of the tidelands within the Subject Area were conveyed into private ownership by the State of California (“State”) pursuant to various state statutes. Portions of those tidelands were subsequently filled and reclaimed. The Public Trust status of portions of the reclaimed tidelands is uncertain. Due to differences in the various statutes authorizing the conveyance of certain portions of the tidelands into private ownership, as well as other historical circumstances, some of the reclaimed tidelands, including lands located well inland from the current shoreline, have remained subject to the Public Trust, while other reclaimed tidelands, including most of the lands adjacent to the shoreline, may have been freed from the Public Trust.

G. In 1939, the United States began acquiring lands, in part by condemnation, for purposes of constructing and operating what came to be the Shipyard. The State and the federal government disagree as to the effect of federal condemnations on the existence of the Public Trust. This disagreement adds to the Public Trust title uncertainties within the Shipyard. In addition, the City asserts certain reserved rights and interests in the Shipyard, including but not limited to rights and interests in former street areas. The Shipyard was closed in 1974. Pursuant to Section 2824(a) of the National Defense Authorization Act for fiscal year 1991, as amended by Section 2834 of the National Defense Authorization Act for fiscal year 1994, the United States Navy is authorized to convey the Shipyard, or portions of the Shipyard, to the City or to a local reuse authority approved by the City. The Agency is the approved local reuse authority for the Shipyard. The Shipyard Site and the Navy ROW, each depicted in **Exhibit 3**, comprise that portion of the Shipyard within the Subject Area presently owned by the United States.

H. Pursuant to a 2004 conveyance agreement with the Agency, the United States Navy conveyed a portion of the Shipyard, commonly known as “Parcel A,” to the Agency and has agreed to transfer the remainder to the Agency following hazardous materials remediation. The Commission approved a boundary line agreement between the Agency and the State on December 9, 2004 (Minute Item #45). In 2005, the Agency and the Commission entered into a boundary line agreement (Commission File No. BLA 274) demarcating the boundary between lands within Parcel A that are free and clear of the Public Trust and lands that may be subject to the Public Trust. Thereafter, the Agency conveyed a portion of the Parcel A lands that are free of the Public Trust, including certain street areas, to the predecessor of CP Development Co., L.P., the current developer of the Project (“Developer”), for purposes of residential development, and retained the remainder in Agency ownership. The Parcel A Site, depicted in **Exhibit 3**, consists of a portion of the lands within Parcel A retained by the Agency. **Exhibit 3**

I. Portions of Parcel A presently owned by the Developer and the Agency have been reserved for street purposes, including certain streets that are to be impressed with the Public Trust under this Agreement. Pursuant to a separate agreement, the Developer and the Agency will each convey to the City their fee interests in those portions of the proposed streets within Parcel A that are to be impressed with the Public Trust under this Agreement. These streets comprise the Hilltop Trust Streets depicted in **Exhibit 3**.

J. The State's sovereign interest in the filled tidelands at Candlestick Point involves primarily reserved streets and portions of a former railroad right-of-way. In 1958, the State, through Chapter 2 of the Statutes of 1958, First Extraordinary Session ("1958 Act"), authorized the sale of a portion of the State's sovereign interests in Candlestick Point to the City for the purpose of developing a sports stadium. The State received consideration for the sale. The intent of the 1958 Act was to terminate the Public Trust on the transferred lands, but the statute required that the lands be used only for purposes of general statewide interest. Pursuant to the 1958 Act, the State conveyed the lands to the City by patent, recorded at Book 14, page 46 in the records of the Commission (the "1958 Patent"). Under the 1958 Patent, the City acquired the lands free of the Public Trust, but the 1958 Patent contained a limitation stating that the grant was only for the uses prescribed by the 1958 Act ("Statewide Interest Restriction"). The City thereafter constructed the stadium commonly referred to as Candlestick Park on a portion of the granted lands and other lands acquired by the City. The City, acting by and through its Recreation and Park Commission ("City Rec/Park"), currently holds and leases approximately 77 acres at Candlestick Point, including a portion of the lands granted by the 1958 Patent, to the San Francisco Forty Niners ("49ers") for stadium and parking use ("49ers Lease"). The 49ers have announced their intention to build a new stadium at a location other than Candlestick Point. If and when the 49ers Lease expires or terminates and the 49ers have vacated the 49ers Lease premises, City Rec/Park intends to convey the 49ers Lease premises to the Agency in accordance with the terms of a separate agreement, entered into concurrently with this Agreement (the "Rec/Park Land Transfer Agreement"). The 49ers Lease premises, together with certain streets and other lands owned by the City but not included within the 49ers Lease premises, and a portion of Harney Way owned by the Commission, comprise the Old Stadium Development Site and the Park Addition depicted in **Exhibit 3**.

K. In 1968, the Legislature enacted the Burton Act (Chapter 1333 of the Statutes of 1968, as amended), which granted to the City the State's remaining interest in tidelands within the City, including the State's sovereign interests in the portion of Candlestick Point outside of the stadium site. This grant was made subject to the Public Trust and to the terms and conditions of the Burton Act. The lands granted to the City under the Burton Act are held by the Port. At Candlestick Point, the lands held by the Port under the Burton Act consist primarily of streets and a former railroad right-of-way. These lands, together with certain privately owned lots adjacent to the Port-owned streets, constitute the Port Site depicted in **Exhibit 3**.

L. In 1973, the Legislature authorized State Parks to acquire and develop real property at Candlestick Point for the state park system. State Parks subsequently acquired certain private lands near and along the shoreline of Candlestick Point to create the Candlestick Point State Recreation Area ("CPSRA"). In 1984, the City quitclaimed to the Commission

those lands within the CPSRA boundary that the City had acquired under the 1958 Act and under the Burton Act. The quitclaim deed (“1984 Quitclaim”) reserved to the City a right of reversion in the event that certain improvements were not made at the CP State Park Site (“Reversionary Interest”). A portion of the lands described in the 1984 Quitclaim, which are primarily in the form of paper streets and a former railroad right of way, are held in fee by the Commission and, with the exception of certain portions of the former railroad right of way lying within San Francisco County Assessors Blocks 4884 and 4906, are leased to State Parks for a term of 49 years, of which 25 years remain, pursuant to Commission Lease PRC 6414. State Parks’ leasehold interest is depicted and described in **Exhibit 19** (“Legal Description and Illustrative Plat of Commission Fee Interest Within CPSRA”). The remaining lands within the CPSRA are held by State Parks in fee. Together, these lands constitute the lands within the CP State Park Site depicted in **Exhibit 3**.

M. Certain lands currently held by the Commission in fee ownership that are outside of the CPSRA, including portions of the former railroad right of way not included in Commission Lease PRC 6414, comprise the Non-Park Commission Land depicted in **Exhibit 3**. The City claims a fee interest in certain portions of Yosemite Avenue, Wallace Avenue, Van Dyke Avenue, and Underwood Avenue adjoining the CPSRA and were excluded from the 1984 Quitclaim. These lands comprise the Yosemite Slough Addition depicted in **Exhibit 3**. The City and/or the Port claims a fee interest in a portion of Arelius Walker Drive within the Subject Area and adjoining the CPSRA and the Shipyard. These lands comprise the Walker Drive Site and depicted in **Exhibit 3**.

N. The Alice Griffith Site, described and depicted in **Exhibit 20** (“Legal Description and Illustrative Plat of Alice Griffith Site”) consists in part of former tidelands. The precise location of the boundary between lands that, at statehood, were above the mean high tide line and the lands that were below the mean high tide line (“historic uplands”) is uncertain. The historic uplands are within confirmed Mexican land grants and are free of the Public Trust. Portions of the former tidelands were conveyed by the State into private ownership pursuant to Chapter 543 of the Statutes of 1868, and are free of the Public Trust by application of the decision of the California Supreme Court in City of Berkeley v. Superior Court (1980) 26 Cal. 3d 515. The State reserved the remaining portions of the former tidelands within the Alice Griffith Site as streets. A portion of the reserved streets were conveyed to the City free of the Public Trust pursuant to the 1958 Act. In 1960, the State conveyed its interest in the remainder of the streets by patent to the Housing Authority of the City and County of San Francisco pursuant to an exchange authorized by Chapter 1573 of the Statutes of 1955, as amended by Chapter 1999 of the Statutes of 1957 (“Hunters Point Reclamation District Act”). Both the patent, under the Hunters Point Reclamation District Act, and a subsequent act of the Legislature (Chapter 1273 of the Statutes of 1963) had the effect of terminating the Public Trust in the patented lands.

O. The Hunters Point Submerged Lands, described in **Exhibit 21** (“Legal Description of Hunters Point Submerged Lands”), consist of submerged lands held by the Port under the Burton Act that lie waterward of the submerged lands owned by the Navy, but within the boundaries of the Hunters Point Shipyard Redevelopment Area adopted by the Agency. Certain of the piers located at the Shipyard and owned by the Navy extend onto the Hunters

Point Submerged Lands, and will ultimately be conveyed to the Agency under the Agency's agreement with the Navy.

P. In 2007, the City and the Agency undertook an integrated planning effort for the Shipyard and Candlestick Point, which resulted in the adoption of a Conceptual Framework for Development ("Conceptual Framework"). The Conceptual Framework calls for a mixed use project within the Subject Area that will provide, among other things, much needed parks and open space, including a major renovation of the CPSRA to enhance access by residents and visitors to the waterfront; new business and employment opportunities; new housing opportunities affordable for residents of the neighboring Bayview Hunters Point community; a site for a new sports stadium on the Shipyard, with alternative uses if the San Francisco 49ers elect to build a new stadium elsewhere; and other economic and public benefits for the community and the City as a whole and the statewide public. In June 2008, the voters of the City approved Proposition G, the "Mixed Use Development Project for Candlestick Point and Hunters Point Shipyard." Proposition G promulgated City policy encouraging the timely development of the Subject Area with a mixed-use project.

Q. In 2009, the Legislature enacted SB 792 for the purpose of facilitating the productive reuse of the Shipyard and Candlestick Point in a manner that furthers the purposes of the Public Trust and the Community Redevelopment Law. SB 792 authorizes the Commission to carry out an exchange of lands that will place or confirm the Public Trust on lands within the Subject Area with substantial value for the Public Trust, and terminate the Public Trust in Subject Area lands that are no longer useful for Public Trust purposes. SB 792 also confirms that the 1958 Act terminated the Public Trust in the lands transferred to the City pursuant to that statute, repeals that part of the 1958 Act that imposed the Statewide Interest Restriction, and directs the Commission to cooperate in actions necessary to remove any encumbrances on title created by the Statewide Interest Restriction. SB 792 authorizes the Agency to hold Public Trust lands within the Subject Area as trustee on behalf of the people of California, and grants to the Agency in trust all of the State's sovereign right, title and interest in lands within the Subject Area in which the Agency owns or acquires fee title.

R. In 2010, the Agency and the City undertook a series of actions in connection with the Project, including certification of an environmental impact report for the Project, adoption of amendments to the Hunters Point Shipyard Redevelopment Plan and the Bayview Hunters Point Redevelopment Plan, adoption of general plan, zoning code, and zoning map amendments, approval of a disposition and development agreement, and various other actions to implement the Project.

S. This Agreement provides a mechanism for implementing the trust exchange contemplated in SB 792 through a series of conveyances that will result in the configuration of Public Trust lands substantially similar to that depicted on the diagram in Section 25 of SB 792. Following the conveyances, the Trust Termination Parcels will be freed of the Public Trust, as well as any "applicable statutory trust" as that term is defined in SB 792 ("Statutory Trust"); the Public Trust Parcels will be impressed with the Public Trust; and those Public Trust Parcels conveyed to the Agency will be impressed additionally with the Statutory Trust. The conveyances will also terminate the Statewide Interest Restriction in the lands conveyed, and

will eliminate the City's Reversionary Interest in the CP State Park Site and any residual right, title or interest of the City in the Shipyard Site.

T. The Exchange will be accomplished through the following recorded conveyances, subject to the phasing provisions, conditions of closing, and other terms and conditions of this Agreement:

i. The Agency will convey to the Commission by quitclaim deed all of its right, title and interest in those portions of the Public Trust Parcels and Trust Termination Parcels lying within the Shipyard Site, the Navy ROW, the Parcel A Site, the Old Stadium Development Site, and the Park Addition.

ii. The City will convey to the Commission by quitclaim deed all of its right, title and interest in those portions of the Public Trust Parcels and Trust Termination Parcels lying within the Shipyard Site, the Hilltop Trust Streets, the CP State Park Site, the Non-Park Commission Land, the Yosemite Slough Addition, the Walker Drive Site, the Old Stadium Development Site, and the Park Addition.

iii. The Port will convey to the Commission by quitclaim deed all of its right, title and interest in those portions of the Public Trust Parcels and Trust Termination Parcels lying within the CP State Park Site, the Non-Park Commission Land, the Walker Drive Site, and the Port Site.

iv. State Parks will convey to the Commission by quitclaim deed ("Lease Quitclaim") all of its right, claim, title, or interest arising by virtue of or pursuant to that certain lease designated Lease PRC 6414, and approved by the Commission on April 28, 1983.

v. The Commission will accept the Lease Quitclaim from State Parks.

vi. State Parks will convey to the Commission by quitclaim deed all of its right, title and interest in those portions of the Public Trust Parcels and Trust Termination Parcels lying within the CP State Park Site.

vii. The Commission will accept the CP State Park Site Public Trust Parcel as sovereign lands subject to the Public Trust, and will lease that parcel to State Parks for a term of 66 years.

viii. The Commission will accept the CP State Park Site Trust Termination Parcel and the Navy ROW Trust Termination Parcel, and will convey to State Parks by quitclaim, free of the Public Trust and Statutory Trust, all of its right, title and interest in those parcels.

ix. The Commission will accept the Shipyard Site Public Trust Parcel, the Parcel A Public Trust Parcel, the Yosemite Slough Addition Public Trust Parcel, the Walker Drive Site Public Trust Parcel, the Old Stadium Development Site

Public Trust Parcel, the Park Addition Public Trust Parcel, and the Port Site Public Trust Parcel, and will convey to the Agency by patent, as sovereign lands subject to the Public Trust and the Statutory Trust, all of its right title and interest in those parcels.

x. The Commission will accept the Hilltop Trust Streets Public Trust Parcel and will convey to the City by patent, as sovereign lands subject to the Public Trust and the Statutory Trust, all of its right title and interest in that parcel.

xi. The Commission will accept the Shipyard Site Trust Termination Parcel, the Parcel A Site Trust Termination Parcel, the Non-Park Commission Land Trust Termination Parcel, the Yosemite Slough Addition Trust Termination Parcel, the Old Stadium Development Site Trust Termination Parcel, the Park Addition Trust Termination Parcel, and the Port Site Trust Termination Parcel, and will convey to the Agency by patent, free of the Public Trust and the Statutory Trust, all of its right title and interest in those parcels.

U. Following the Exchange, the entire waterfront within the Subject Area, as well as certain interior lands that have high Public Trust values, will be subject to the Public Trust. The lands that will be removed from the Public Trust pursuant to the exchange have been cut off from navigable waters, are no longer needed or required for the promotion of the Public Trust, and constitute a relatively small portion of the granted public trust lands within the City.

V. In the interest of settlement, the Parties have conducted independent studies and evaluations of their respective factual and legal positions relating to the disputed title claims. Appraisals and property interest evaluation studies reviewed or completed by the Commission have shown that the value of the lands and interests to be exchanged into the Public Trust under this Agreement is equal to or greater than the value of the lands and interests to be exchanged out of the Public Trust.

W. This Agreement contemplates that the conveyances called for hereunder will occur in a series of phased closings (each a "Closing Phase"). The initial Closing Phase ("Initial Closing Phase") will effectuate the Exchange within the CP State Park Site, the Parcel A Site, the Non-Park Commission Land, Yosemite Slough Addition, Walker Drive Site, and the Hilltop Trust Streets, as depicted for illustrative purposes in **Exhibit 22** ("Illustrative Plat of Initial Closing Phase Exchange Areas"), and as more particularly described in **Exhibit 23** ("Legal Description of Public Trust Parcels for Initial Closing Phase") and in **Exhibit 24** ("Legal Description of Trust Termination Parcels for Initial Closing Phase").

X. Subsequent Closing Phases (each a "Subsequent Closing Phase") will occur as the Agency acquires portions of the Shipyard Site and Navy ROW from the Navy, and, with respect to the Old Stadium Development Site and Park Addition, after the 49ers Lease expires or terminates and the Agency acquires the lands from City Rec/Park. It is anticipated that each Subsequent Closing Phase will be in substantial conformance with the phasing requirements set forth in this Agreement. As provided in this Agreement, the Commission will review each Subsequent Closing Phase for conformity with the phasing requirements provided in this Agreement.

Y. The Parties presently anticipate that some or all of the lands within the Shipyard Site will be remediated by the United States prior to transfer to the Agency, and that the United States will provide a warranty for the lands in accordance with Section 9620(h)(3)(A) of Title 42 of the United States Code. However, it is possible that a portion of the lands within the Shipyard Site will be conveyed to the Agency by early transfer, prior to complete remediation by the United States. In accordance with Section 23 of SB 792, this Agreement provides that lands within the Shipyard Site for which no warranty has been obtained may not be exchanged unless and until the United States has obtained a warranty deferral for the lands, approved by the Governor in accordance with Section 9620(h)(3)(C) of Title 42 of the United States Code, and the Commission has made a written finding that sufficient liability measures and implementation measures will be in place upon the completion of the exchange.

Z. In addition to authorizing a Public Trust exchange, SB 792 authorizes a reconfiguration of the CPSRA. By separate agreement, recorded in the in the office of the City and County of San Francisco Recorder on _____ in Book _____ Document No. _____ (“Park Agreement”), State Parks, Commission and the Agency have agreed to make certain conveyances to implement the CPSRA reconfiguration authorized by SB 792, subject to the terms and conditions of the Park Agreement. The Park Agreement provides for, inter alia, the phased conveyance of portions of the CP State Park Site Public Trust Parcel and CP State Park Site Trust Termination Parcel to the Agency in exchange for consideration that includes, in part, the conveyance by the Agency of the Yosemite Slough Addition Public Trust Parcel and the Park Addition Public Parcel to the Commission, and the Yosemite Slough Addition Trust Termination Parcel and the Park Addition Trust Termination Parcel to State Parks, for inclusion in the CPSRA. The conveyances of lands within the CP State Park Site that are called for in this Agreement are part of the Initial Closing Phase and are intended to precede the conveyances of those portions of the CP State Park Site designated for transfer to the Agency under the Park Agreement. With respect to the Yosemite Slough Addition Parcels and the Park Addition Parcels, this Agreement and the Park Agreement provide that, if the conveyances of those parcels under each agreement will occur concurrently, the Parties may simplify the transaction by consolidating the required conveyances as appropriate to effectuate the intent of both agreements.

AA. In addition to providing for the reconfiguration of the CPSRA, another primary purpose of the Park Agreement is to facilitate the redesign and improvement of the CPSRA. To that end, State Parks as embarked on a General Plan Revision for the CPRSA, which is anticipated to include trail improvements, habitat restoration, increased public access, and enhanced public recreational facilities.**[Consider whether this para is needed for this agreement]**

BB. The Parties desire that the Agency have the authority to convey in trust to the City the fee interest in those portions of the Public Trust Parcels that will be dedicated as public streets. Section 18 of SB 792 authorizes the Agency, subject to approval by the Commission, to transfer Public Trust lands to the City, to be held by the City subject to the Public Trust and the Statutory Trust. By this Agreement, in accordance with Section 18 of SB 792, the Commission approves and authorizes the transfer from the Agency to the City of the fee interest in those portions of the Public Trust Parcels that will be dedicated as public streets. These lands include

the portion of Harney Way currently owned by the Commission, which is to be conveyed in trust to the Agency under this Agreement.

CC. SB 792 declares that a portion of the Shipyard, delineated as “Hillside Open Space” on the diagram in Section 25 of SB 792, provides substantial value to the Public Trust as an open space and recreational resource affording exceptional views of San Francisco Bay and the waterfront. Accordingly, SB 792 requires the Commission to ensure that significant view corridors to the waterfront are protected, adequate public access is provided, and other conditions related to the Hillside Open Space are met. SB 792 also requires that the Commission make certain findings, and impose certain conditions on the exchange, relating to transportation, public access and parking facilities. This Agreement contains requirements to ensure that all of these requirements are met.

DD. By this Agreement, the Parties also seek to confirm that the Alice Griffith Site is not encumbered by the Public Trust, or any other right, title or interest of the State. This Agreement permanently fixes the agreed historic shoreline within the Alice Griffith Site as described and depicted in **Exhibit 25** (“Legal Description and Illustrative Plat of Agreed Historic Shoreline”), in order to establish thereby the waterward boundary of lands having the character of historic uplands, and therefore not subject to the Public Trust. In addition, the State, by this Agreement, confirms that the Public Trust has been terminated on all former tidelands within the Alice Griffith Site, and disclaims any right, title or interest of the State in the Alice Griffith Site. The Parties believe that the Agreed Historic Shoreline represents the best available evidence of the location of the historic shoreline. Pursuant to Section 22 of SB 792, the Parties consider it expedient and necessary and in the best interests of the Parties and the public to settle by agreement the location of the Agreed Historic Shoreline and to confirm the State’s prior conveyance free of the Public Trust of the former tidelands within the Alice Griffith Site, thereby permanently fixing, establishing, and forever setting to rest any and all questions relating to the existence of any State sovereign interests in this location.

EE. Sections 6(b) and 7(c) of SB 792 provide that, upon conveyance by the federal government to the Agency of any piers or other appurtenances located in part on the Hunters Point Submerged Lands, the grant of the State’s right, title, and interest in the Hunters Point Submerged Lands to the City pursuant to the Burton Act (which right, title and interest is held by the City by and through the Port) is revoked, and all of the State’s right, title, and interest in those lands is granted to and vested in the Agency, subject to the Public Trust and the Statutory Trust. To facilitate the transfer of title to the Hunters Point Submerged Lands from the Port to the Agency, this Agreement provides that, upon the Agency’s acquisition of any piers or other appurtenances located in part on the Hunters Point Submerged Lands, the Port will quitclaim all of its right, title and interest in the Hunters Point Submerged Lands to the Agency.

FF. In the late 1970s and early 1980s, an approximately 35 acre portion of the CP State Park Site was developed with park improvements using grant monies from the federal Land and Water Conservation Fund (“LWCF”). As a condition of receiving the grants, and in accordance with 16 U.S.C. § 460l(f)(3), State Parks entered into agreements with the federal government in which it committed to provide replacement outdoor recreation lands in the event that the improved lands were converted to uses other than outdoor recreation (“LWCF Replacement Commitment”). The Commission is not a party to these agreements with the

federal government. The lands presently subject to the LWCF Replacement Commitment include certain lands to be exchanged into the Public Trust and held by the Commission. This Agreement clarifies the obligations of State Parks with respect to the LWCF Replacement Commitment as it pertains to Public Trust lands.

GG. The Agency approved execution of an agreement substantially in the form of this Agreement through its approval of Agency Resolution No. 67-2010, on June 3, 2010.

HH. The City approved execution of an agreement substantially in the form of this Agreement through its approval of Board Resolution No. 348-10 on July 27, 2010.

II. The Port approved execution of an agreement substantially in the form of this Agreement through its approval of Port Resolution No. 10-40 on June 8, 2010.

JJ. The Commission approved execution of an agreement substantially in the form of this Agreement on _____.

KK. State Parks approved execution of an agreement substantially in the form of this Agreement on _____.

AGREEMENT

1. Definitions. Terms in this Agreement are defined as they appear herein. **Exhibit 59** ("List of Defined Terms") contains a list of defined terms and the sections in which they are defined.

2. State Parks Quitclaim of Leasehold Interest. At the time the CP State Park Site Public Trust Parcels and the CP State Park Site Trust Termination Parcels are conveyed pursuant to Section 3, State Parks and the Commission shall terminate the existing leasehold interest affecting the CPSRA through the following conveyances and acceptances:

2.1 State Parks shall convey to the Commission through the Lease Quitclaim all of its right, claim, title, or interest arising by virtue of or pursuant to that certain lease designated Lease PRC 6414, and approved by the Commission on April 28, 1983. A conveyance made pursuant to this paragraph shall be by the Lease Quitclaim in the form of **Exhibit 26** ("Form of a Lease Quitclaim deed from State Parks to Commission of State Parks Leasehold Interest").

2.2 The Commission shall accept the conveyance made through the Lease Quitclaim upon the terms set forth in its Certificate of Acceptance, which shall be in the form of **Exhibit 27** ("Form of Commission's Certificate of Acceptance of State Park's Lease Quitclaim Deed").

3. Trust Exchange and Conveyances.

3.1 Establishment of the Public Trust on Public Trust Parcels. The Public Trust shall be established in the Public Trust Parcels through the following conveyances and acceptances, in accordance with and subject to the phasing procedures described in Section 4, the conditions of closing described in Section 17, and the other terms and conditions of this Agreement:

a. Conveyances of Public Trust Parcels to the Commission.

i. The Agency shall convey, remise, release, and forever quitclaim to the Commission all of the Agency's right, title, and interest in the Shipyard Site Public Trust Parcel, the Parcel A Site Public Trust Parcel, the Old Stadium Development Site Public Trust Parcel, and the Park Addition Public Trust Parcel. A conveyance made pursuant to this paragraph shall be by Quitclaim Deed in the form of **Exhibit 28** ("Form of Quitclaim Deed from Agency/City to Commission").

ii. The City and the Port each shall convey, remise, release, and forever quitclaim to the Commission all of their respective right, title, and interest in the CP State Park Site Public Trust Parcel, including but not limited to any Reversionary Interest held by the City or the Port. A conveyance made pursuant to this paragraph shall be by Quitclaim Deed in the form of **Exhibit 29** ("Form of Quitclaim Deed from City/Port to Commission of CP State Park Site and Non-Park Commission Land parcels").

iii. The City shall convey, remise, release, and forever quitclaim to the Commission all of the City's right, title, and interest in the Shipyard Site Public Trust Parcel, Hilltop Trust Streets Public Trust Parcel, the Walker Drive Site Public Trust Parcel, the Yosemite Slough Addition Public Trust Parcel, the Old Stadium Development Site Public Trust Parcel, and the Park Addition Public Trust Parcel. A conveyance made pursuant to this paragraph shall be by Quitclaim Deed in the form of **Exhibit 28** ("Form of Quitclaim Deed from Agency/City to Commission")

iv. The Port shall convey, remise, release, and forever quitclaim to the Commission all of the Port's right, title, and interest in the Walker Drive Site Public Trust Parcel and the Port Site Public Trust Parcel. A conveyance made pursuant to this paragraph shall be by Quitclaim Deed in the form of **Exhibit 30** ("Form of Quitclaim Deed from Port to Commission of Port Site Parcel").

v. State Parks shall convey, remise, release, and forever quitclaim to the Commission all of State Park's right, title, and interest in the CP State Park Site Public Trust Parcel. A conveyance made pursuant to this paragraph shall be by Quitclaim Deed in the form of **Exhibit 31** ("Form of Quitclaim Deed from State Parks to Commission of CP State Park Site Public Trust Parcel").

b. Acceptance of Public Trust Parcels by the Commission.

i. The Commission shall accept the conveyance of the SShipyard Public Trust Parcel, the Parcel A Public Trust Parcel, the Hilltop Trust Streets Public Trust Parcel, the Walker Drive Site Public Trust Parcel, the Old Stadium Development Site Public Trust Parcel, the Yosemite Slough Addition Public Trust Parcel, the Park Addition Public Trust Parcel and the Port Site Public Trust Parcel upon the terms set forth in its Certificate of Acceptance, which shall be in the form of **Exhibit 32** ("Form of Commissions' Certificate of Acceptance of Agency/City/Port Public Trust Parcels"]).

ii. The Commission shall accept the conveyance of the CP State Park Site Public Trust Parcel, to be held by the Commission subject to the Public Trust, upon the terms set forth in its Certificate of Acceptance, which shall be in the form of **Exhibit 33** (“Form of Commissions’ Certificate of Acceptance of State Park Site Public Trust Parcel”).

c. Conveyances of Public Trust Parcels from the Commission.

i. The Commission shall convey, remise, release, and forever quitclaim to the Agency, in trust, all of the State’s right, title, and interest existing by virtue of its sovereignty, or otherwise, in the Shipyard Site Public Trust Parcel, the Parcel A Site Public Trust Parcel, the Walker Drive Site Public Trust Parcel, Yosemite Slough Addition Public Trust Parcel, and the Port Site Public Trust Parcel, subject to the Public Trust and the Statutory Trust. A conveyance made pursuant to this paragraph shall be by patent in the form of **Exhibit 34** (“Form of Patent from Commission to Agency of Public Trust Parcels”).

ii. The Commission shall convey, remise, release, and forever quitclaim to the Agency, in trust, all of the State’s right, title, and interest existing by virtue of its sovereignty, or otherwise, in the Old Stadium Development Site Public Trust Parcel and the Park Addition Public Trust Parcel, subject to the Public Trust and the Statutory Trust. A conveyance made pursuant to this paragraph shall be by patent in the form of **Exhibit 35** (“Form of Patent from Commission to Agency of Old Stadium Development Site/Park Addition Public Trust Parcel”), and shall extinguish any Statewide Interest Restriction.

iii. The Commission shall convey, remise, release, and forever quitclaim to the City, in trust, all of the State’s right, title, and interest existing by virtue of its sovereignty, or otherwise, in the Hilltop Trust Streets Public Trust Parcel, subject to the Public Trust and the Statutory Trust. A conveyance made pursuant to this paragraph shall be by patent in the form of **Exhibit 36** (“Form of Patent from Commission to City of Hilltop Trust Streets Public Trust Parcel”).

iv. The Commission shall lease the CP State Park Site Public Trust Parcel to State Parks for a term of 66 years. The lease shall be substantially in the form of **Exhibit 37** (“Form of Lease from Commission to State Parks”).

d. Acceptance of Public Trust Parcel Conveyances from the Commission.

i. The Agency shall accept the conveyance of the Shipyard Site Public Trust Parcel, the Parcel A Site Public Trust Parcel, the Old Stadium Development Site Public Trust Parcel, the Walker Drive Site Public Trust Parcel, the Yosemite Slough Addition Public Trust Parcel, the Park Addition Parcel, and the Port Site Public Trust Parcel upon the terms set forth in its Certificate of Acceptance, which shall be in the form of **Exhibit 38** (“Form of Agency/City Certificate of Acceptance of Public Trust Parcels”).

ii. The City shall accept the conveyance of the Hilltop Trust Street Public Trust Parcel upon the terms set forth in its Certificate of Acceptance, which shall be in the form of **Exhibit 38** (“Form of Agency/City Certificate of Acceptance of Public Trust Parcels”).

iii. State Parks shall accept the lease from the Commission of the CP State Park Site Public Trust Parcel, substantially in the form of **Exhibit 37** ("Form of Lease from Commission to State Parks").

3.2 **Termination of the Public Trust and the Statutory Trust in the Trust Termination Parcels.** The Public Trust and the Statutory Trust shall be terminated in the Trust Termination Parcels through the following conveyances and acceptances, in accordance with and subject to the phasing procedures described in Section 4, the conditions of closing described in Section 17, and the other terms and conditions of this Agreement:

a. **Conveyances to the Commission of the Trust Termination Parcels.**

i. The Agency shall convey, remise, release, and forever quitclaim to the Commission all of the Agency's right, title, and interest in the Shipyard Site Trust Termination Parcel, the Navy ROW Trust Termination Parcel, the Parcel A Site Trust Termination Parcel, the Old Stadium Development Site Trust Termination Parcel, and the Park Addition Trust Termination Parcel. A conveyance pursuant to this paragraph shall be by Quitclaim Deed in the form of **Exhibit 28** ("Form of Quitclaim Deed from Agency/City to Commission").

ii. The City shall convey, remise, release, and forever quitclaim to the Commission all of the City's right, title, and interest in the Shipyard Site Trust Termination Parcel, the Old Stadium Development Site Trust Termination Parcel, the Yosemite Slough Addition Trust Termination Parcel, and the Park Addition Trust Termination Parcel. A conveyance made pursuant to this paragraph shall be by Quitclaim Deed in the form of **Exhibit 28**.

iii. The City and the Port each shall convey, remise, release, and forever quitclaim to the Commission all of their respective right, title, and interest in the CP State Park Site Trust Termination Parcel and the Non-Park Commission Land Trust Termination Parcel, including but not limited to any Reversionary Interest held by the City or the Port. A conveyance pursuant to this paragraph shall be by Quitclaim Deed in the form of **Exhibit 29**.

iv. The Port shall convey, remise, release, and forever quitclaim to the Commission all of the Port's right, title, and interest in the Port Site Trust Termination Parcel. A conveyance pursuant to this paragraph shall be by Quitclaim Deed in the form of **Exhibit 30** ("Form of Quitclaim Deed from Port to Commission of Port Site Parcel").

v. State Parks shall convey, remise, release, and forever quitclaim to the Commission all of State Park's right, title and interest in the CP State Park Site Trust Termination Parcel. A conveyance pursuant to this paragraph shall be by Quitclaim Deed in the form of **Exhibit 39** ("Form of Quitclaim Deed from State Parks to Commission of CP State Park Site Trust Termination Parcel").

b. **Acceptance of Trust Termination Parcels by Commission.**

i. The Commission shall accept the conveyance of the Shipyard Site Trust Termination Parcel, the Navy ROW Trust Termination Parcel, the Parcel A Site Trust Termination Parcel, the Non-Park Commission Land Trust Termination Parcel, the Port Site Trust Termination Parcel, the Old Stadium Development Site Trust Termination Parcel, the Yosemite Slough Addition Trust Termination Parcel and the Park Addition Trust Termination Parcel upon the terms set forth in its Certificate of Acceptance, which shall be in the form of **Exhibit 40** (“Form of Commission’s Certificate of Acceptance of Agency/City/Port Trust Termination Parcels”).

ii. The Commission shall accept the conveyance of the CP State Park Site Trust Termination Parcel upon the terms set forth in its Certificate of Acceptance, which shall be in the form of **Exhibit 41** (“Form of Commission’s Certificate of Acceptance of CP State Park Site Trust Termination Parcel”).

c. Conveyances from Commission of the Trust Termination Parcels.

i. The Commission shall convey, remise, release, and forever quitclaim to the Agency all of the State’s right, title, and interest existing by virtue of its sovereignty or otherwise in the Shipyard Site Trust Termination Parcel, the Parcel A Site Trust Termination Parcel, the Non-Park Commission Land Trust Termination Parcel, the Yosemite Slough Addition Trust Termination Parcel and the Port Site Trust Termination Parcel. A conveyance pursuant to this paragraph shall be by Patent in the form of **Exhibit 42** (“Form of Patent and Trust Termination from Commission to Agency of Trust Termination Parcels”) and shall specifically release, terminate and extinguish any Public Trust or Statutory Trust interest in said parcels.

ii. The Commission shall convey, remise, release, and forever quitclaim to the Agency all of the State’s right, title, and interest existing by virtue of its sovereignty or otherwise in the Old Stadium Development Site Trust Termination Parcel and the Park Addition Trust Termination Parcel. A conveyance pursuant to this paragraph shall be by Patent in the form of **Exhibit 43** (“Form of Patent and Trust Termination from Commission to Agency of Old Stadium Development Site/Park Addition Trust Termination Parcel”) and shall specifically release, terminate and extinguish any Public Trust or Statutory Trust interest, and any Statewide Interest Restriction, in said parcel.

iii. The Commission shall convey, remise, release, and forever quitclaim to State Parks all of Commissions’ jurisdiction over the CP State Park Site Trust Termination Parcel and the Navy ROW Trust Termination Parcel. A conveyance pursuant to this paragraph shall be by Quitclaim in the form of **Exhibit 44** (“Form of Quitclaim and Trust Termination from Commission to State Parks of CP State Park Site Trust Termination Parcel”) and shall specifically release, terminate and extinguish any Public Trust or Statutory Trust interest, and any Statewide Interest Restriction, in said parcels.

d. Acceptance of Conveyances from Commission.

i. The Agency shall accept the conveyance of the Shipyard Site Trust Termination Parcel, the Parcel A Site Trust Termination Parcel, the Old Stadium Development

Site Trust Termination Parcel, the Yosemite Slough Addition Trust Termination Parcel, the Park Addition Trust Termination Parcel, the Non-Park Commission Land Trust Termination Parcel, and the Port Site Trust Termination Parcel upon the terms set forth in its Certificate of Acceptance, which shall be in the form of **Exhibit 45** ("Form of Agency's Certificate of Acceptance of Trust Termination Parcels").

ii. State Parks shall accept the conveyance of the CP State Park Site Trust Termination Parcel and the Navy ROW Trust Termination Parcel upon the terms set forth in its Certificate of Acceptance, which shall be in the form of **Exhibit 46** ("Form of State Park's Certificate of Acceptance of CP State Park Site/Navy ROW Trust Termination Parcel").

3.3 **Yosemite Slough Addition and Park Addition.** If the conveyance of the Yosemite Slough Addition Parcels or the Park Addition Parcels under this Agreement is to occur concurrently with the conveyances of those parcels under the Park Agreement, the Parties may, by mutual agreement, consolidate the required conveyances as appropriate to simplify the transaction, provided the agreed conveyances are consistent with the intent of this Agreement and the Park Agreement.

3.4 Notwithstanding the foregoing, in any quitclaim of the City's interests made pursuant to this Section 3, the City shall reserve any existing sewer easements held by the City within the quitclaimed property, and, for any existing sewer facility within the quitclaimed property that is owned or operated by the City but not subject to an existing easement, the City shall reserve an easement for such facility on reasonable terms and conditions.

4. **Closing Phases.**

4.1 **General.** The conveyances described in Section 2 and Section 3 of this Agreement shall be effectuated through the Initial Closing Phase and the Subsequent Closing Phases. Each of the Subsequent Closing Phases shall be subject to approval by the Commission in accordance with the terms and conditions of this Agreement. Notwithstanding anything to the contrary in Section 3, the Parties shall be obligated to convey and accept at each Closing Phase only those portions of the Public Trust Parcels and Trust Termination Parcels applicable to that Closing Phase, as provided in this Section 4.

4.2 **Initial Closing Phase.** The Initial Closing Phase shall consist of the lease quitclaim described in Section 2, and the conveyance pursuant to Section 2 of lands within the CP State Park Site, the Non-Park Commission Land, the Yosemite Slough Addition, the Walker Drive Site, the Parcel A Site, and the Hilltop Trust Streets Site, as depicted for illustrative purposes in **Exhibit 22** ("Illustrative Plat of Initial Closing Phase Exchange Areas"), and as more particularly described in **Exhibit 23** ("Legal Description of Public Trust Parcels for Initial Closing Phase") and in **Exhibit 24** ("Legal Description of Trust Termination Parcels for Initial Closing Phase").

4.3 **Subsequent Closing Phases.**

a. **General.** Each Subsequent Closing Phase shall consist of those lands lying within the boundaries of one or more of the Primary Phase Areas depicted in **Exhibit 47**

(“Illustrative Plat of Primary Phase Areas”) or Secondary Phase Areas depicted in **Exhibit 48** (“Illustrative Plat of Secondary Phase Areas”), subject to the requirements of Section 4.3(b) and as those boundaries may be modified in accordance with Section 5 of this Agreement. The lands included in each Subsequent Closing Phase shall be more particularly described in legal descriptions approved by the Commission pursuant to Section 4.3(c) of this Agreement.

b. **Phasing Requirements.** Subsequent Closing Phases comprising lands within one or more Primary Phase Areas depicted in **Exhibit 47** may proceed in any order or combination, as determined by the Agency in its sole discretion. A Subsequent Closing Phase may include or consist of lands within a Secondary Phase Area depicted in **Exhibit 48** if the closing occurs concurrently with or after the closing on an Associated Phase for that Secondary Phase Area described in the table attached hereto as **Exhibit 49** (“Associated Phases for Secondary Phase Areas”).

c. **Commission Review.** Prior to each Subsequent Closing Phase, the final legal descriptions for each parcel to be conveyed in that closing shall be submitted to the Commission for its review and approval. The Commission shall approve the Subsequent Closing Phase if it determines that, based on the final legal descriptions, (a) the boundaries of the Public Trust Parcels and Trust Termination Parcels to be conveyed are consistent in all material respects with the relevant portions of **Exhibit 2**, as that exhibit may be modified in accordance with Section 5, and (b) the closing is in substantial conformance with the phasing requirements set forth in Section 4.3(b). If the Commission determines that the Subsequent Closing Phase is not in substantial conformance with the phasing requirements set forth in Section 4.3(b), the Subsequent Closing Phase shall be approved only if the Commission makes the findings required by Section 24 of SB 792 with respect to the proposed closing.

5. **Procedures for Parcel Boundary Adjustments.** It is anticipated that a number of development approvals within the Subject Area, including the approval of detailed infrastructure plans, subdivision maps, and parcel maps, will be obtained after the effective date of this Agreement and, in some cases, after the relevant phases have closed. The engineering and design information developed in connection with those approvals will assist in determining the precise location of land parcel boundaries and of project infrastructure, including streets to be held subject to the Public Trust. Accordingly, minor adjustments to the boundaries of the Public Trust Parcels or the Trust Termination Parcels (“Parcel Boundary Adjustment”), as those boundaries are depicted in the Exhibits to this Agreement, or as they may be described in deeds implementing this Agreement, may become necessary or desirable as more detailed site information is developed. A Parcel Boundary Adjustment shall proceed in accordance with the following procedures:

5.1 A Parcel Boundary Adjustment may not be sought without the consent of every Party that, following the conveyances contemplated under this Agreement or under the State Parks Land Transfer Agreement, would be the fee owner of a parcel, the boundary of which will be changed by the adjustment (“Affected Party”).

5.2 After obtaining the consent of each Affected Party, the Party seeking the Parcel Boundary Adjustment shall request approval of the Parcel Boundary Adjustment from the Commission, which approval shall not be unreasonably delayed or withheld, subject to the

review standards set forth in Section 5.3. The requesting Party shall provide the Commission with any maps, legal descriptions, surveys, or other information necessary to review the proposed Parcel Boundary Adjustment.

5.3 The Commission may approve the Parcel Boundary Adjustment if it determines that the configuration of Public Trust Parcels and Trust Termination Parcels after the adjustment would be consistent with the configuration shown in **Exhibit 2** in all material respects. If the Commission determines that the resulting configuration materially differs from **Exhibit 2**, it may approve the Parcel Boundary Adjustment only if it finds the proposed configuration would nevertheless be substantially similar to the configuration shown in Section 25 of SB 792, and makes any other findings with respect to the proposed configuration that may be required by SB 792.

5.4 Following Commission approval, the Affected Parties and the Commission shall cooperate in the actions necessary to effectuate the Parcel Boundary Adjustment, including, as necessary, the preparation of legal descriptions, deeds, and revised exhibits to this Agreement, at the sole cost and expense of the Party requesting the Parcel Boundary Adjustment. Upon written approval by the Commission and the Affected Parties of revised exhibits reflecting the Parcel Boundary Adjustment approved by the Commission pursuant to this Section 5, the revised exhibits shall be deemed to replace the relevant exhibits to this Agreement. If an approved Parcel Boundary Adjustment affects a parcel that was previously conveyed in a prior closing under this Agreement, the Affected Parties and the Commission shall cooperate in undertaking any conveyances, boundary line adjustments, or other actions necessary to effectuate the Parcel Boundary Adjustment as to that parcel.

6. **Alice Griffith Site.** The Parties hereby agree to permanently fix and establish the Agreed Historic Shoreline described in **Exhibit 25** as the boundary between lands having the character of historic uplands and lands having the character of historic tidelands within the Alice Griffith Site described in **Exhibit 20**. The Parties further agree that the lands within the Alice Griffith Site landward of the Agreed Historic Shoreline are free of the Public Trust by virtue of having the character of historic uplands. The Parties further agree that the Public Trust has been terminated on all lands waterward of the Agreed Historic Shoreline by virtue of patents or other instruments issued in accordance with applicable state statutes. The Commission hereby disclaims any right, title or interest of the State arising by virtue of its sovereignty or otherwise, including any Public Trust or Statutory Trust interest, in the lands within the Alice Griffith Site.

7. **Private Parcels.**

7.1 A portion of the Old Stadium Development Site Public Trust Parcel within the proposed Harney Way right of way is presently in private ownership, the approximate location of which is illustrated in **Exhibit 51** ("Illustrative Plat of Private Parcels Within Harney Way ROW"). If the Agency or the City has not acquired title to the private lands within the Old Stadium Development Site Public Trust Parcel at the time of the closing of the exchange phase that includes that Parcel, the Agency and City shall reasonably cooperate with the Commission in undertaking the conveyances and other actions necessary to establish the Public Trust and Statutory Trust on any portion of such private lands that has been acquired by the Agency or the City for the purpose of inclusion within the Harney Street right of way. Nothing in this

Agreement shall be construed as imposing an obligation on the City or Agency to acquire any private lands, or to establish the Public Trust or Statutory Trust on any private lands within the Old Stadium Development Site Public Trust Parcel that are acquired by the City or the Agency but not included within the Harney Street right of way.

7.2 The Port Site Trust Termination Parcel and the Old Stadium Development Site Trust Termination Parcel include lands that are in private ownership, the approximate location of which is illustrated in **Exhibit 52** ("Illustrative Plat of Private Parcels Within Port Site Area"). The conveyances of the Port Site Trust Termination Parcel and the Old Stadium Development Site Trust Termination Parcel called for by this Agreement are intended in part to terminate the Public Trust and the Statutory Trust in any private lands within those parcels. The Parties agree to reasonably cooperate in taking whatever additional actions may be necessary to effectuate and confirm the termination of the Public Trust and Statutory Trust in the affected private lands as may be needed to facilitate the development of Candlestick Point.

8. Hunters Point Submerged Lands. Promptly following the transfer of ownership from the Navy to the Agency of any piers or other appurtenances located in part on the Hunters Point Submerged Lands, the Agency shall notify the Port of the transfer. The Agency and the Port shall reasonably cooperate in taking the actions necessary to effectuate and record a conveyance by quitclaim deed of the Port's right, title and interest in the Hunters Point Submerged Lands to the Agency, subject to the Public Trust and the Statutory Trust.

9. Acknowledgement of United States Warranties and Indemnities. The Parties to this Agreement acknowledge that, through the conveyances described in this Agreement, any and all warranties or indemnities provided by the United States pursuant to the Defense Authorization Act of 1993, Pub. L. 102-484 § 330(a)(1), Defense Base Realignment and Closure Act of 1990, Pub. L. 105-510 § 2901 et seq., and the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9620(h)(3), and pertaining to the release or threatened release of any hazardous substance, pollutant, contaminant, petroleum, or petroleum derivative resulting from Department of Defense activities will, by operation of law, be transferred to the extent provided by applicable law, along with the conveyances of any lands subject to such warranties pursuant to this Agreement to the State, the Agency, and any other person or entity that acquires ownership or control of any of the lands conveyed under this Agreement or any portion thereof. The Parties acknowledge that the conveyances described in this Agreement do not cause the grantor to lose any warranty or indemnity provided by the United States.

10. Defense of Claims. The Parties agree to use reasonable efforts to defend this Agreement, any deed, patent, agreement, or other instrument executed pursuant thereto, and any decision made by a Party to approve the foregoing, including the approval of any required findings related thereto, in any legal action challenging the validity or legality thereof. In any such action, the Agency shall reimburse the Commission and State Parks for all reasonable costs incurred in connection with such action, including but not limited to reasonable staff time and attorneys fees incurred by the Commission and State Parks, and including but not limited to any award of attorney fees made by a court of competent jurisdiction against the Commission and/or State Parks, on such reasonable terms and conditions as the Parties may establish by separate agreement; provided, however, that the Agency's obligation to reimburse a Party shall apply

only to the extent that Party agrees to allow the Agency to lead the joint defense, reasonably cooperates therein, and does not take a position materially adverse to the Agency; and provided further that the fee or expense (including any liability for an attorneys fees award) was incurred in connection with a claim that is part of the joint defense of the Party and the Agency. Nothing in this section limits the discretion of the Commission or State Parks to solely conduct its own defense, take the lead in its own defense, or take a position materially adverse to the Agency.

11. State Minerals Reservation. The State excepts from the conveyances of Public Trust Parcels made pursuant to Section 3.1 of this Agreement and reserves unto the State of California, its successors and assigns, forever, any and all minerals and any and all mineral rights in the lands of every kind and character now known to exist or hereafter discovered in the lands hereafter conveyed to the Agency or the City as Public Trust Parcels pursuant to this Agreement. Such mineral rights shall include, but are not limited to, oil and gas and rights, together with the sole, exclusive, and perpetual right to explore for, remove, and dispose of those minerals by any means or methods suitable to the State or to its successors and assigns, except that, this reservation shall not include the right of the State or its successors or assigns in connection with any mineral reservation, removal, or disposal activity, to do either of the following: (1) enter upon, use or damage the surface of the lands or interfere with the use of the surface by the grantee or by the grantee's successor, assigns or lessees; or (2) conduct any mining activities of any nature whatsoever above a plane located five hundred (500) feet below the surface of the lands without written permission of the Agency or its successors or assigns.

12. Public Access and View Protection.

12.1 Transportation, Public Access and Parking Facilities.

a. Consistent with SB 792, the proposed configuration of streets and other transportation, public access and parking facilities within the Subject Area, as depicted in the facilities plan attached hereto as **Exhibit 53** ("Facilities Plan"), (a) provides access to the Public Trust Parcels and is consistent with the beneficial use of those lands, (b) provides for streets and transportation facilities located on the Public Trust Parcels that are compatible with the Public Trust and serve primarily Public Trust purposes of access to shoreline improvements and shoreline circulation, (c) maintains reasonable public pedestrian and vehicular access between the Hillside Open Space and the waterfront, and in addition, between the top of the Hillside Open Space and other areas of the city, (d) provides direct vehicular and pedestrian access from the lower portions of the Shipyard to the top of the Hillside Open Space, and (e) provides adequate parking areas adjacent to the lower portion of the Hillside Open Space that is accessible to the public to support regional and statewide use of the Hillside Open Space.

b. Subject to Section 12.3 of this Agreement, the streets and other transportation, public access and parking facilities depicted in **Exhibit 53** shall be developed consistent with the configuration shown in **Exhibit 2**. New streets to be located on Public Trust Parcels owned by the Agency shall be developed such that the portions of such streets adjacent to new development on the Trust Termination Parcels are constructed prior to or concurrently with the construction of the adjacent new development.

12.2 View Corridors. To maintain and protect view corridors so that visitors to the Hillside Open Space can enjoy substantial vistas of San Francisco Bay, the construction of new buildings within the Shipyard shall conform to the height limits set forth in **Exhibit 54** (“Height Limitations”) for the corresponding development option (Stadium Option; Non-Stadium Housing Option; or Non-Stadium Housing Option with Historic Buildings Preserved) ultimately approved by the Agency and City, subject to Section 12.3 of this Agreement.

12.3 Deviations from Facilities Plan and Building Height Limits. Notwithstanding Sections 12.1 and 12.2 of this Agreement, the Agency may approve development that deviates from **Exhibit 53** and **Exhibit 54** provided that the proposed deviation is submitted to the Commission, and the Commission finds that (a) the deviation is not material or (b) notwithstanding a material deviation, the proposed development is still consistent with the applicable requirements of Section 23 of SB 792. No development inconsistent with **Exhibit 53** or **Exhibit 54** shall be approved by the Agency, nor shall the construction of any such development commence, without obtaining the required approval by the Commission in accordance with this paragraph.

13. Hilltop Parking and Access. Parking along the street segments depicted in **Exhibit 55** (“Hilltop Parking”) shall be available to the public and shall not be restricted to residential parking. To ensure that the Hilltop Parking remains accessible to the public for regional and statewide use, the Hilltop Parking shall be subject to a five (5) hour time limit between the hours of 6:00 A.M. and 8:00 P.M. The City and the Agency shall provide appropriate signage publicizing public access to the Hillside Open Space and the availability of parking accessible to the public in conjunction with the development of the Shipyard. The City shall use reasonable efforts to strictly enforce the Hilltop Parking restrictions described in this paragraph.

14. Hilltop Development. Consistent with Section 23(c)(2)(D) of SB 792, Section 5.9 of the Master Declaration of Covenants, Conditions and Restrictions and Grant and Reservation of Easements of Hunters Point Shipyard Phase One, dated _____, provides, inter alia, that neither the Agency, in its capacity as trustee of the Public Trust, nor State shall in any manner be liable to the owners of properties upslope of the Hillside Open Space within the Subject Area (“Hilltop Area”) for failure to provide lateral or subjacent support to those properties, or for any other liability created by virtue of the Agency’s taking title to the Hillside Open Space. To comply with Section 23(c)(2)(E) of SB 792, the Agency agrees to refrain from using funds encumbered with the Public Trust under Section 16 of SB 792 to provide a direct benefit to residential development or other uses of the nontrust portion of the Hilltop Area, or to offset or mitigate impacts caused by those uses. The Hilltop Area is depicted on **Exhibit 56** (“Illustrative Plat of Hilltop Area”).

15. Commission Findings.

15.1 As required by SB 792, and to comply with Article X, Section 3 of the California Constitution, the Commission, effective upon execution and recordation of this Agreement, makes the following findings as to the conveyances described in Section 3 of this Agreement:

a. The portions of the lands or interests in lands to be exchanged out of the Public Trust have been filled and reclaimed, are cut off from access to the waters of San

Francisco Bay and are no longer in fact tidelands or submerged lands or navigable waterways, are relatively useless for Public Trust purposes, and constitute a relatively small portion of the granted lands within the City.

b. The lands or interests in lands to be impressed with the Public Trust have a monetary value equal to or greater than the monetary value of the lands or interests in lands to be exchanged out of the Trust.

c. No substantial interference with Public Trust uses and purposes, including public rights of navigation and fishing, will ensue by virtue of the Exchange.

d. The lands or interests in lands impressed with the Public Trust will provide a significant benefit to the Public Trust and are useful for the particular Trust purposes authorized by SB 792.

e. The configuration of the Public Trust Parcels upon completion of the Exchange is substantially similar to the configuration shown on the diagram in Section 25 of SB 792, includes all lands within the Subject Area that are presently below mean high tide, and consists of lands suitable to be impressed with the Public Trust.

f. The final layout of streets in the Subject Area will provide access to the Public Trust Parcels and will be consistent with the beneficial use of the Public Trust Parcels.

g. The lands to be subject to the Public Trust are configured so as to be accessible from the streets as finally configured in the Subject Area.

h. Streets and other transportation facilities located on Public Trust Parcels will be designed to be compatible with the Public Trust and to serve primarily Public Trust purposes of access to shoreline improvements and shoreline circulation rather than serving nontrust purposes.

i. All surveys and legal descriptions required for the parcels in conjunction with the Exchange have been approved by the Commission.

j. The trustees who own or will own fee title in the Public Trust Parcels have approved this Agreement.

k. The Exchange otherwise complies with the requirements of SB 792.

l. The Exchange is consistent with and furthers the purpose of the Public Trust and SB 792.

m. The Exchange is otherwise in the best interest of the statewide public.

15.2 The Commission makes the following additional findings with respect to the phasing of the Exchange, as required by SB 792, effective upon execution and recordation of this Agreement:

a. The findings in this Section 15.2 apply to the Initial Closing Phase and to each Subsequent Closing Phase that is in substantial conformance with the phasing requirements of Section 4.3(b). Based on the Commission's consideration of the appraisals, legal analyses, Public Trust land configuration pertaining to each of the Primary Phase Areas and Secondary Phase Areas depicted in **Exhibit 47** and **Exhibit 48**, and the applicable requirements of Section 4, the Commission has determined that the findings in this Section 15.2 apply regardless of the order in which the Subsequent Closing Phases occur.

b. After the Initial Closing Phase, and after each Subsequent Closing Phase, the cumulative monetary value of all of the lands or interests in lands that have been exchanged into the Public Trust will be equal to or greater than the cumulative monetary value of all of the lands or interests in lands that have been exchanged out of the Public Trust.

c. After the Initial Closing Phase, and after each Subsequent Closing Phase, the lands or interests in lands exchanged into the Public Trust at each phase will be configured in a way that furthers the purposes of the overall exchange, including, but not limited to, having access to streets as finally configured in the Subject Area.

16. Escrow and Closings.

16.1 Initial Closing.

a. Opening of Escrow. The Parties have agreed to open an escrow with _____ Title Company ("Escrow Agent"). As part of escrow, the Parties shall submit additional mutually agreeable escrow instructions.

b. Deposits into Escrow

i. Commission's Deposits into Escrow. The Commission shall deposit the following documents into escrow:

- (1) A certified copy of the Minute Item for Calendar Item No. _____ of the Commission's public hearing on _____, showing the Commission's approval of this Agreement and the Commission's authorization that this Agreement and the patents, quitclaims and certificates of acceptance be executed and delivered to the Escrow Agent on behalf of the Commission;
- (2) This Agreement, duly and properly executed by the Commission;
- (3) A written approval by the Commission of the condition of title to the CP State Park Site Public Trust Parcel, the Hilltop Trust Streets Public Trust Parcel, the Walker Drive Site Public Trust Parcel, the Yosemite Slough Addition Public Trust Parcel and the Parcel A Site Public Trust Parcel as shown in pro forma title commitments in coverage amounts acceptable to the Commission;

- (4) A certificate of acceptance substantially in the form attached hereto as **Exhibit 27** accepting the conveyance from State Parks of its leasehold interest held pursuant to the Commission Lease PRC 6414;
- (5) A certificate of acceptance substantially in the form attached hereto as **Exhibit 32** accepting the conveyance from the Agency of the Parcel A Site Public Trust Parcel;
- (6) A certificate of acceptance substantially in the form attached hereto as **Exhibit 40** accepting the conveyance from the Agency of the Parcel A Site Trust Termination Parcel;
- (7) A certificate of acceptance substantially in the form attached hereto as **Exhibit 33** accepting the conveyance from State Parks of the CP State Park Site Public Trust Parcel;
- (8) A certificate of acceptance substantially in the form attached hereto as **Exhibit 41** accepting the conveyance from State Parks over the CP State Park Site Trust Termination Parcel;
- (9) Certificates of acceptance substantially in the form attached hereto as **Exhibit 32** accepting the conveyance from the City of the City's interest in the CP State Park Site Public Trust Parcel, the Yosemite Slough Addition Public Trust Parcel, the Walker Drive Site Public Trust Parcel, and the Hilltop Trust Streets Public Trust Parcel;
- (10) Certificates of acceptance substantially in the form attached hereto as **Exhibit 40** accepting the conveyance from the City of the City's interest in the CP State Park Site Trust Termination Parcel, the Yosemite Slough Addition Trust Termination Parcel, and the Non-Park Commission Land Trust Termination Parcel;
- (11) Certificates of acceptance substantially in the form attached hereto as **Exhibit 40** accepting the conveyance from the Port of the Port's interest in the CP State Park Site Trust Termination Parcel and the Non-Park Commission Land Trust Termination Parcel;
- (12) Certificates of acceptance substantially in the form attached hereto as **Exhibit 32** accepting the conveyance from the Port of the Port's interest in the CP State Park Site Public Trust Parcel, and the Walker Drive Site Public Trust Parcel;
- (13) A patent substantially in the form attached hereto as **Exhibit 42** transferring to the Agency the Parcel A Site Trust

Termination Parcel, the Non-Park Commission Land Trust Termination Parcel, and the Yosemite Slough Addition Trust Termination Parcel, free of the Trust, duly and properly executed;

(14) A patent substantially in the form attached hereto as **Exhibit 34** transferring to the Agency the Parcel A Site Public Trust Parcel, the Walker Drive Site Public Trust Parcel, and the Yosemite Slough Addition Public Trust Parcel, duly and properly executed;

(15) A patent substantially in the form attached hereto as **Exhibit 36** transferring to the City the Hilltop Trust Streets Public Trust Parcel, duly and properly executed;

(16) An quitclaim deed in the form attached hereto as **Exhibit 44** transferring to State Parks CP State Park Site Trust Termination Parcel, duly and properly executed; and

(17) A duly and properly executed copy of a Lease of the CP State Park Site Public Trust Parcel to State Parks substantially in the form of **Exhibit 37.**

ii. **State Parks Deposits into Escrow.** State Parks shall deposit the following documents into escrow:

(1) Written approval of State Parks' authority to consummate the transactions provided in the Agreement, as documented by the Director of State Parks;

(2) This Agreement, duly and properly executed by State Parks;

(3) A written approval by State Parks of the condition of title to the CP State Park Site Public Trust Parcel and the CP State Park Site Trust Termination Parcel, as shown in pro forma title commitments in coverage amounts acceptable to State Parks;

(4) A quitclaim deed conveying the State Parks leasehold interest held pursuant to the Commission Lease PRC 6414, substantially in the form of **Exhibit 26**, duly and properly executed;

(5) A quitclaim deed conveying the CP State Park Site Trust Termination Parcel from State Parks to the Commission, substantially in the form of **Exhibit 39**, duly and properly executed;

(6) A quitclaim deed conveying the CP State Park Site Public Trust Parcel from State Parks to the Commission, substantially in the form of **Exhibit 31**, duly and properly executed; and

(7) A certificate of acceptance substantially in the form attached hereto as **Exhibit 46** accepting the conveyance from the Commission to State Parks of the CP State Park Site Trust Termination Parcel.

iii. **Agency Deposits into Escrow.** The Agency shall deposit the following documents into escrow:

(1) A certified copy of Agency Resolution _____ adopted on June 3, 2010, approving this Agreement and authorizing that it be executed on behalf of the Agency;

(2) This Agreement duly and properly executed by the Agency;

(3) Written approval by the Agency of the condition of title to the Parcel A Site Public Trust Parcel and the Parcel A Site Trust Termination Parcel, as shown in pro forma title commitments in coverage amounts acceptable to the Agency;

(4) Quitclaim deeds from the Agency, substantially in the form attached hereto as **Exhibit 28**, transferring to the Commission all of the Agency's right, title and interest in the Parcel A Site Trust Termination Parcel and Parcel A Site Public Trust Parcel, duly and properly executed by the Agency;

(5) Certificates of acceptance from the Agency, substantially in the form attached hereto as **Exhibit 38**, accepting the conveyance from the Commission of the Parcel A Site Public Trust Parcel, the Yosemite Slough Addition Public Trust Parcel, and the Walker Drive Site Public Trust Parcel; and

(6) Certificates of acceptance from the Agency, substantially in the form attached hereto as **Exhibit 45**, accepting the conveyance from the Commission of the Parcel A Site Trust Termination Parcel, the Yosemite Slough Addition Trust Termination Parcel, and the Non-Park Commission Land Trust Termination Parcel.

iv. **City Deposits into Escrow.** The City shall deposit the following documents into escrow:

(1) A certified copy of Board of Supervisors Resolution _____ adopted on _____, approving this Agreement and authorizing that it be executed on behalf of the City;

- (2) This Agreement duly and properly executed by the City;
- (3) Written approval by the City of the condition of title to the Hilltop Trust Streets Public Trust Parcel, as shown in pro forma title commitments in coverage amounts acceptable to the City;
- (4) Quitclaim deeds from the City, substantially in the form attached hereto as **Exhibit 29**, conveying to the Commission all of the City's right, title and interest in the CP State Park Site Trust Termination Parcel, the CP State Park Site Public Trust Parcel, and the Non-Park Commission Land Trust Termination Parcel, duly and properly executed by the City;
- (5) Quitclaim deeds from the City, substantially in the form attached hereto as **Exhibit 28**, conveying to the Commission all of the City's right, title and interest in the Hilltop Trust Streets Public Trust Parcel, the Yosemite Slough Addition Public Trust Parcel, the Yosemite Slough Addition Trust Termination Parcel and the Walker Drive Site Public Trust Parcel, duly and properly executed by the City; and
- (6) A certificate of acceptance from the City, substantially in the form attached hereto as **Exhibit 38**, accepting the conveyance from the Commission of the Hilltop Trust Streets Public Trust Parcel.

v. Port Deposits into Escrow. The Port shall deposit the following documents into escrow:

- (1) A certified copy of Port Commission Resolution _____ adopted on June 8, 2010, approving this Agreement and authorizing that it be executed on behalf of the Port;
- (2) This Agreement duly and properly executed by the Port; and
- (3) Quitclaim deeds from the Port, substantially in the form attached hereto as **Exhibit 29**, conveying to the Commission all of the Port's right, title and interest in the CP State Park Site Trust Termination Parcel, the CP State Park Site Public Trust Parcel, the Non-Park Commission Land Trust Termination Parcel, and the Walker Drive Site Public Trust Parcel, duly and properly executed by the Port.

c. Close of Escrow and Recordation. For each closing, upon receipt of all documents listed and described in Section 16.1(c) above, pertaining to the deposits into escrow, Escrow Agent shall notify the Parties of its intention to close escrow and to record this

Agreement, if not already recorded, and all deeds, patents, leases and other instruments pertaining to that closing, in the manner and subject to the requirements of escrow instructions submitted to the Escrow Agent by the Parties and agreed to by the Escrow Agent.

16.2 Subsequent Closing Phases

a. Subsequent Closing Phase Procedures

i. Initiation of Subsequent Closing Phase; Escrow. Subsequent Closing Phases will be initiated by the Agency. The Agency shall initiate a Subsequent Closing Phase by establishing an escrow in San Francisco with a title company agreed upon by the Parties and providing written notice to the other Parties. The notice shall include draft legal descriptions for the lands to be conveyed in the Subsequent Closing Phase, a list of all documents required to close with required signatories indicated, and drafts of all deeds, instruments, certificates of acceptance, title commitments, and other documents that are required for the closing and are within the Agency's responsibility and control. The parties shall use commercially reasonable efforts to close within one hundred and twenty (120) days of receipt of the notice.

ii. Legal Descriptions. The Parties shall reasonably cooperate to obtain mutually acceptable legal descriptions for the parcels subject to each Subsequent Closing Phase. It is a condition precedent to a Party's obligation to close escrow for the conveyance or acceptance of real property by that Party that the other Party or Parties conveying or accepting the real property in the subsequent closing have agreed on the legal description for the real property, and that the Commission has approved the legal description in accordance with Section 4.3(c).

iii. Escrow Deposits. The Parties involved in a subsequent closing shall deposit into escrow documents substantially similar to those described in Section 16.1(c) of this Agreement, subject to any supplemental joint escrow instructions agreed to in writing by the Parties. In addition, for any subsequent closing for which additional Commission approval is required by this Agreement, the Commission shall deposit a certified copy of the minute item reflecting the required approval.

17. Conditions Precedent to Closing.

17.1 Agency Conditions Precedent. The following are conditions precedent to the Agency's obligation to close escrow for the conveyance of real property from the Agency to the Commission under this Agreement:

a. Agency Fee Title. The Agency shall have acquired fee title to all of that portion of the real property to be conveyed by the Agency at the closing, including but not limited to real property that is presently owned by the United States or by City Rec/Park. Nothing in this Agreement shall be construed as creating an obligation on the part of the Agency to acquire or accept real property from any third party fee owners, including but not limited to the United States or City Rec/Park.

b. 49ers Lease Termination. With respect to real property within the Old Stadium Development Site or Park Addition only, the 49ers Lease shall have terminated or expired, and the 49ers shall have vacated the Old Stadium Development Site and Park Addition premises. Nothing in this Agreement shall be construed as creating an obligation on the part of the City, acting by or through City Rec/Park or otherwise, or the Agency to terminate, enforce, or decline to renew the 49ers Lease, or to cause the same to occur.

17.2 Commission's Conditions Precedent. The following are conditions precedent to the obligation of the Commission to close escrow for the conveyance of real property from the Commission to Agency under this Agreement:

a. Commission Approval. The Commission shall have approved the subsequent closing, including the legal descriptions for the deeds associated therewith, in accordance with Section 4.3(c).

b. Hazardous Materials Remediation. With respect to the Shipyard Site Public Trust Parcel only, the Commission shall have made a finding that one of the following has occurred with respect to the real property to be conveyed at the closing:

(a) all remedial action necessary to protect human health and the environment with respect to the hazardous substances on the land has been completed as determined by the United States Environmental Protection Agency, the California Department of Toxics Substances Control, and the Regional Water Quality Control Board, pursuant to the Federal Facilities Agreement for the shipyard dated January 22, 1992, as amended, and the United States has provided a warranty for the lands in accordance with Section 9620(h)(3)(A) of Title 42 of the United States Code; or

(b) the United States has obtained a warranty deferral for the lands, approved by the Governor in accordance with Section 9620(h)(3)(C) of Title 42 of the United States Code, and the Commission has made a finding that sufficient liability measures and implementation measures will be in place upon the completion of the exchange.

17.3 Mutual Conditions Precedent. The following are conditions precedent to each Party's obligation to close escrow for the conveyance of the applicable real property under this Agreement:

a. Title Condition. Each Party to receive title to real property under this Agreement (except the Commission if the property is a Trust Termination Parcel) shall have approved for the property to be received the condition of title and the form of title insurance to be issued by the Title Company, in amount of coverage reasonably requested, which approval shall not be unreasonably withheld. Approval of the condition of title shall not be withheld due to the existence, as of the effective date of this Agreement, of sewer or other utility easements, public rights of way, or private access or other rights or interests of private adjoining.

b. Physical Condition. Each party to receive title to real property under this Agreement (except the Commission if the property is a Trust Termination Parcel) shall have approved the physical condition of the property to be received, which approval shall not be unreasonably withheld.

18. No Warranties. The Parties acknowledge and agree that, except as expressly set forth in this Agreement or any document or instrument executed in connection with or as contemplated by this Agreement, no Party holding title to real property to be conveyed under this Agreement has made any representations or warranties, express or implied, as to any matters, directly or indirectly, concerning the real property, including, but not limited to the condition of title, hazardous materials, the physical condition of the property, or any other matters affecting or relating to the property.

19. Hazardous Materials Indemnification.

19.1 The Agency shall indemnify, defend and hold harmless the Commission, its officers, agencies, commissions, and employees from and against any and all claims, liability, losses, costs and expenses (collectively "claims"), including third party claims and claims by any governmental agency (other than the State, acting through the Commission), relating to any hazardous materials that, as of the date of a Closing Phase under this Agreement, are located at, on, over, under, or flowing through any Public Trust Parcel (other than the CP State Park Site Public Trust Parcel) to be conveyed in the Closing Phase (collectively "Covered Trust Lands"), provided, however, that the obligation to indemnify under this Section shall not apply to the extent that (i) the hazardous materials were present on the Covered Trust Lands during any period (prior to the Closing Phase) in which the State owned the fee in the Covered Trust Lands, or (ii) the State or its agents released, generated, treated, stored, used, disposed of, deposited, abandoned or exacerbated the hazardous materials affecting the Covered Trust Lands. The Agency and the Commission agree that if the Commission is a named insured in a pollution liability insurance policy obtained by the Agency, the obligation to indemnify the Commission under this Section shall not become effective unless and until any proceeds from the policy are exhausted. The Agency and Commission further agree to reasonably cooperate to seek any and all available remedies against the United States in connection with the warranties and indemnities described in Section 9, and that the obligation to indemnify the Commission under this Section shall not become effective unless and until all such remedies have been exhausted. If any portion of the Covered Trust Lands are acquired in trust by the City, the City shall assume the rights and obligations of the Agency under this Section as to the lands acquired. The obligation to indemnify under this Section shall terminate on the later of January 1, 2040, and 15 years following the date of the Closing Phase that pertains to that parcel; provided, however, that the obligation shall not terminate as to Claims asserted in an action filed prior to the termination date.

19.2 A Party holding title to property within the Subject Area ("Owner") shall permit any other Party to which the property is to be conveyed ("Recipient") to enter upon the property, upon reasonable notice and subject to reasonable time and manner conditions, for the purpose of conducting such investigations of the physical condition of the property as the Recipient deems

necessary to satisfy itself as to the matters described in Section 17.3(b) in preparation for a closing. Upon the request of a Recipient, an Owner provide or make available to the Recipient any existing environmental reports, including any Phase I Environmental Site Assessments, relating to the property to be conveyed by Owner. An Owner shall accommodate a reasonable request by a Recipient for additional invasive testing, including but not limited to soil or groundwater sampling, subject to Owner's approval of testing plans and procedures, which shall not be unreasonably withheld, and further subject to mutual agreement of the Owner and Recipient regarding responsibility for the costs of such additional testing. No entry by a Recipient shall unreasonably interfere with the use of the property by Owner or its tenants, easement holders, licensees, or permittees.

20. Judicial Confirmation of Validity of Agreement and Settlement. An action may be brought under Chapter 4 (commencing with Section 760.010) of Title 10 of Part 2 of the Code of Civil Procedure to establish title to any lands conveyed pursuant to this Agreement, or by the parties to this Agreement to confirm the validity of this Agreement. An action may also be brought under Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine, inter alia, the legality and validity of a deed, patent, agreement, or other instrument executed in furtherance of or authorized by SB 792. Upon entry of a judgment confirming the validity of the settlement embodied in this Agreement, each party shall be deemed to have waived any right to appeal from such judgment.

21. Effect of Judicial Finding of Invalidity. A judicial determination that any portion of this Agreement is invalid shall not invalidate the remainder. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the Parties shall amend this Agreement and/or take other action necessary to achieve the intent of this Agreement in a manner consistent with the ruling of the court.

22. Impacts of Sea Level Rise.

22.1 The boundaries established and conveyances made pursuant to this Agreement are intended to be fixed and not subject to change by erosion, accretion, reliction or submergence whether due to natural or artificial causes. However, should lands freed of the Public Trust become inundated from waters of the San Francisco Bay or the Pacific Ocean, whether due to either erosion or sea level rise that results in the land being submerged or subject to the ebb and flow of the tide below the elevation of mean high water, the lands for so long as such conditions exist will be subject to the Public Trust easement. Nothing in this section limits the rights of any Party pursuant to Civil Code Section 1015.

22.2 Nothing in this Agreement obligates State Parks or the Commission to protect or cause to be protected any privately held uplands, including, but not limited to, constructing or causing to be constructed any protective structures that benefit any privately held uplands. Further, neither the Agency, in its capacity as trustee of the Public Trust, State Parks, nor the Commission shall in any manner be liable to the owners of upland properties within the Subject Area for failure to provide protection against sea level rise.

22.3 Nothing in this Section 22 is intended to increase or diminish the rights of any Party under existing law, including without limitation, the rights of any Party to undertake

protective measures to maintain the boundaries at the locations established pursuant to this Agreement.

23. Agreement Not to Encumber. Except as otherwise provided herein, none of the Parties shall sell, transfer, assign, mortgage, pledge, or hypothecate, whether by operation of law or otherwise, any of their respective rights, title, or interests in or to the Public Trust Parcels or the Trust Termination Parcels prior to the consummation of the transfers provided for herein with respect to such lands.

24. Transfer of Public Trust Streets. In accordance with Section 18 of SB 792, the Commission approves and authorizes the transfer from the Agency to the City of the fee title in any portion of the Public Trust Parcels that has been conveyed to the Agency pursuant to this Agreement and that has been or will be dedicated as a public street, to be held by the City subject to the Public Trust and the Statutory Trust.

25. Allocation of Costs and Expenses. The Agency shall pay the expenses and fees of the Escrow Agent, including those costs associated with document preparation and recordation of this Agreement, its deeds and patents, and any associated documents. The Agency shall also pay expenses and fees associated with any title insurance policy for the Trust Termination Parcels. All other fees, costs and expenses of any attorney, engineer or other person employed or retained by a Party in connection with the transactions underlying this Agreement shall be borne by the Party incurring the fee or expense, except as the Parties may otherwise agree.

26. Further Assurances. So long as authorized by applicable laws to do so, the Parties will perform such other acts, and execute, acknowledge and deliver all further conveyances and other instruments that may be necessary to fully assure to the other Parties all of the respective properties, rights, titles, interests, remedies, powers and privileges to be conveyed or provided for by this Agreement.

27. Execution Before a Notary Public. All signatures of the Parties to this Agreement and all deeds and other conveyances executed pursuant to this Agreement shall be acknowledged before a Notary Public and a certificate of acknowledgment shall be attached to the executed Agreement and other documents to allow them to be recorded in the Office of the Recorder of the City and County of San Francisco, California. The Governor's signature shall be attested to by the Secretary of State.

28. Agreement for Compromise and Settlement. It is expressly understood by the Parties that the provisions set forth in this Agreement have been agreed upon for purposes of compromising and settling disputed interests in the Public Trust Parcels and Trust Termination Parcels.

29. No Admission or Effect if Agreement Not Made Effective. In the event this Agreement does not become effective, or becomes effective but is declared by a final non-appealable judgment of a court of competent jurisdiction to be invalid, nothing in it shall constitute, or be construed as, an admission by any Party hereto or evidence concerning the boundaries, physical character, or character of title or interest in the lands within the Subject Area.

30. No Effect on Other Lands. The provisions of this Agreement do not constitute, nor are they to be construed as, an admission by any Party or evidence concerning the boundaries, physical character, or character of title to or interest in any lands outside the Subject Area.

31. No Determination of Trust Consistency. Nothing in this Agreement shall be construed as a determination by the Commission regarding the Public Trust consistency of any use of the Public Trust Parcels.

32. LWCF Replacement Commitment. The Parties agree and confirm that State Parks is solely responsible for complying with the LWCF Replacement Commitment with respect to all state-owned lands (including any Public Trust lands) that are subject thereto, and that State Parks shall retain that sole responsibility notwithstanding any transfer to the Commission of lands subject to the LWCF Replacement Commitment.

33. Agreement Binding on Successors. All the terms, provisions, and condition of this Agreement shall be binding upon and inure to the benefit of the respective heirs, administrators, executors, successors, and assigns of the Parties.

34. Modification or Amendment. Except as expressly provided in this Agreement, no modification, amendment, or alteration of this Agreement shall be valid unless in writing and signed by the Commission, the Agency, and each other Party whose rights or obligations under this Agreement would be affected by the amendment.

35. No Effect on Other Government Jurisdiction. This Agreement has no effect whatsoever on the regulatory, environmental or other jurisdiction of any federal, state, local, or other government entity not a party to this Agreement.

36. Notice. Any notice required pursuant to this Agreement shall be in writing and given by delivering the notice in person, by commercial courier, or by sending it by registered or certified mail, or overnight mail, return receipt requested, with postage to the addresses shown below or to such other address as the applicable Party may provide. For the convenience of the Parties, notice also may be given by facsimile in addition to one of the above methods, at the numbers listed below:

Commission:

California State Lands Commission
100 Howe Avenue, Suite 100-S
Sacramento, CA 95825
Attention: Executive Officer

With copies to:

California Department of Justice
1515 Clay Street
Oakland, CA 94612-1413
Attention: Joseph Rusconi, Patricia Peterson

State Parks:

California Dept. of Parks and Recreation
1416 9th Street
Sacramento, CA 95814
Attention: Executive Director

With copies to:

California Department of Justice
1515 Clay Street
Oakland, CA 94612-1413
Attention: Ellyn S. Levinson

Agency:

San Francisco Redevelopment Agency
One South Van Ness Avenue, 5th Floor
San Francisco, CA 94103
Attention: Executive Director

With copies to:

San Francisco Redevelopment Agency
One South Van Ness Avenue, 5th Floor
San Francisco, California 94103
Attn: Legal Division

Shute, Mihaly, & Weinberger LLP
396 Hayes Street
San Francisco, CA 94102
Attn: William J. White

City:

Office of Economic and Workforce Development
City Hall, Rm. 448
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102
Attn: Director

With copies to:

Office of the City Attorney
City Hall, Rm. 234

1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102
Attn: Real Estate/Finance

Port:

Port of San Francisco
Pier 1, The Embarcadero
San Francisco, CA 94111
Attention: Executive Director

With copies to:

Port of San Francisco
Pier 1, The Embarcadero
San Francisco, CA 94111
Attention: General Counsel

37. Approvals and Consents. Unless otherwise provided in this Agreement, whenever an approval, consent or satisfaction is required of a Party, the approval, consent or satisfaction shall be given on behalf of the Party by the representative(s) listed below:

37.1 If the Party is the Commission: by the Commission, as may be evidenced by appropriate document executed by the Executive Officer of the Commission.

37.2 If the Party is State Parks: by the Director of State Parks.

37.3 If the Party is the Agency: by the Executive Director of the Agency.

37.4 If the Party is the City: by the City's Director of Real Estate.

37.5 If the Party is the Port: by Port's Executive Director.

38. Correction of Technical Errors. If by reason of inadvertence, and contrary to the intention of the Parties, errors are made in this Agreement in a legal description or the reference to or within any exhibit with respect to a legal description, in the boundaries of any parcel in any map or drawing which is an exhibit, or in the typing of this Agreement or any of its exhibits, the Parties affected the error by mutual agreement may correct such error by memorandum executed by them without the necessity of amendment of this Agreement.

39. Effective Date. This Agreement shall become effective on the date on which it is executed by the Governor, who shall be the last Party to execute the Agreement. For purposes of Section 764.080 of the Code of Civil Procedure, this Agreement is deemed to be entered into on the date it is executed by the Executive Officer of the Commission.

40. Exhibits. **Exhibit 1** through **Exhibit 59** are attached to this Agreement and are incorporated by reference as parts of it.

To witness this Agreement, a duly authorized officer of each Party has executed it below on the date opposite each signature.

STATE OF CALIFORNIA
STATE LANDS COMMISSION

DATED: _____

By: _____

Paul D. Thayer
Executive Officer

Approved as to form:

Edmund G. Brown, Jr.
Attorney General
State of California

DATED: _____

By: _____

Joseph C. Rusconi
Deputy Attorney General

STATE OF CALIFORNIA
DEPARTMENT OF PARKS AND
RECREATION

DATED: _____

By: _____

Ruth Coleman
Director

Approved as to form:

Edmund G. Brown, Jr.
Attorney General
State of California

DATED: _____

By: _____
Ellyn S. Levinson
Deputy Attorney General

CITY AND COUNTY OF SAN
FRANCISCO, a municipal corporation,
acting by and through its Board of
Supervisors

DATED: _____

By: _____
Gavin Newsom
Mayor

Approved as to form:

Dennis Herrera
City Attorney
City and County of San Francisco

DATED: _____

By: _____
Charles Sullivan
Deputy City Attorney

CITY AND COUNTY OF SAN
FRANCISCO, a municipal corporation,
acting by and through its Port Commission

DATED: _____

By: _____
Monique Moyer
Executive Director

Approved as to form:

Dennis Herrera
City Attorney
City and County of San Francisco

DATED: _____

By: _____
Robert Bryan
Port General Counsel

REDEVELOPMENT AGENCY of the
CITY AND COUNTY OF SAN
FRANCISCO, a public body, corporate and
politic

DATED: _____

By: _____
Fred Blackwell
Executive Director

Approved as to form:

DATED: _____

By: _____
James Morales
Agency Counsel

IN APPROVAL WHEREOF, I, ARNOLD
SCHWARZENEGGER, Governor of the
State of California, have set my hand and
caused the Seal of the State of California to
be hereunto affixed, pursuant to section
6107 of the Public Resources Code of the

State of California, this ____ day of
_____, 2010.

ARNOLD SCHWARZENEGGER
Governor

Attest:
SECRETARY OF STATE

By: _____
Debra Bowen
Secretary of State

LIST OF EXHIBITS

Exhibit number	Name/Description
1	Legal Description of Subject Area
2	Illustrative Plat of Subject Area.
3	Illustrative Plat of Exchange Areas
4	Illustrative Plat of Shipyard Site Public Trust Parcel.
5	Illustrative Plat of Parcel A Site Public Trust Parcel
6	Illustrative Plat of Hilltop Trust Streets Public Trust Parcel.
7	Illustrative Plat of CP State Park Site Public Trust Parcel.
8	Illustrative Plat of Walker Drive Site Public Trust Parcel.
9	Illustrative Plat of Old Stadium Development Site Public Trust Parcel.
10	Illustrative Plat of Park Addition Public Trust Parcel.
11	Illustrative Plat of Port Site Public Trust Parcel.
12	Illustrative Plat of Shipyard Site Trust Termination Parcel.
13	Illustrative Plat of Parcel A Site Trust Termination Parcel.
14	Illustrative Plat of CP State Park Site Trust Termination Parcel.

15	Illustrative Plat of Non-Park Commission Land Trust Termination Parcel.
16	Illustrative Plat of Old Stadium Development Site Trust Termination Parcel.
17	Illustrative Plat of Park Addition Trust Termination Parcel.
18	Illustrative Plat of Port Site Trust Termination Parcel.
19	Legal Description and Illustrative Plat of Commission Fee Lands in CPSRA
20	Legal Description of Alice Griffith Site
21	Legal Description of Hunters Point Submerged Lands.
22	Illustrative Plat of Initial Closing Phase Areas
23	Legal Description of Public Trust Parcels
24	Legal Description of Trust Termination Parcels;
25	Legal Description and Illustrative Plat of Agreed Historic Shoreline
26	Form of a Lease Quitclaim Deed from State Parks to Commission of State Parks Leasehold Interest
27	Form Commissions' Certificate of Acceptance of State Park's Lease Quitclaim Deed
28	Form of Quitclaim Deed from Agency/City to Commission
29	Form of Quitclaim Deed from City/Port to Commission of CP State Park Site and Non-Park Commission Land

	parcels
30	Form of Quitclaim Deed from Port to Commission of Port Site Parcel
31	Form of Quitclaim Deed from State Parks to Commission of CP State Park Site Public Trust Parcel
32	Form of Commissions' Certificate of Acceptance of Agency/City/Port Public Trust Parcels
33	Form of Commissions' Certificate of Acceptance of State Park Site Public Trust Parcel
34	Form of Patent from Commission to Agency of Public Trust Parcels
35	Form of Patent from Commission to Agency of Old Stadium Development Site/Park Addition Public Trust Parcels
36	Form of Patent from Commission to City of Hilltop Trust Streets Public Trust Parcel
37	Form of Lease from Commission to State Parks
38	Form of Agency/City Certificate of Acceptance of Public Trust Parcels
39	Form of Quitclaim Deed from State Parks to Commission of CP State Park Site Trust Termination Parcel
40	Form of Commission' Certificate of Acceptance of Agency/City/Port Trust Termination Parcels
41	Form of Commissions' Certificate of Acceptance of CP State Park Site Trust Termination Parcel

42	Form of Patent and Trust Termination from Commission to Agency of Trust Termination Parcels
43	Form of Patent and Trust Termination from Commission to Agency of Old Stadium Development Site/Park Addition Trust Termination Parcels
44	Form of Quitclaim and Trust Termination from Commission to State Parks of CP State Park Site Trust Termination Parcel
45	Form of Agency's Certificate of Acceptance of Trust Termination Parcels
46	Form of State Park's Certificate of Acceptance of CP State Park Site/Navy ROW Trust Termination Parcel
47	Illustrative Plat of Primary Phase Areas
48	Illustrative Plat of Secondary Phase Areas,
49	Associated Phases for Secondary Phase Areas
50	Illustrative Plat of Navy ROW Trust Termination Parcel
51	Illustration of Private Parcels within Harney Way ROW
52	Illustration of Private Parcels within Port Site Area
53	Facilities Plan
54	Height Limitations
55	Hilltop Parking
56	Illustrative Plat of Hilltop Area

57	Illustrative Plat of Yosemite Slough Addition Public Trust Parcel
58	Illustrative Plat of Yosemite Slough Addition Trust Termination Parcel
59	List of Defined Terms

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